IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10195 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT RAFFIA INDUSTRIES LTD

Versus

UNION OF INDIA

Appearance:
MR PARESH M DAVE for Petitioners
MR MUKESH R SHAH for all the respondents

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE N.G.NANDI

Date of decision: 02/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Rule. Mr.Mukesh R. Shah waives the service on behalf of all the respondents.

This Special Civil Application is directed against the common order dated 29th Nov.1999 passed by the Commissioner (Appeals), Central Excise and Customs, Ahmedabad whereby the present petitioners' appeal No.195/AHD-II/98 against O.I.No. 112/D/98 dated 29th Jan.1998 was dismissed for non-compliance of the provisions of Sec.35F of the Central Excise Act, 1944.

It is not disputed before us that the petitioners' application for modification of stay order No.582/99 as had been moved on 26th Oct.1999 was not decided on merits and without deciding this application for modification, the appeal was dismissed.

In the facts and circumstances of this case, the impugned order dated 29th Nov.1999 is set aside qua the present petitioners only, i.e. with regard to O.I.112/D/98 dated 29th Jan.1998 which was the subject matter of challenge in Appeal No.195/AHD-II/98 and we direct the Commissioner (Appeals), Central Excise and Customs, Ahmedabad to first decide the petitioners' application seeking modification as was moved on 26th Oct.1999 and thereafter decide the Appeal No.195/AHD-II/98 afresh in accordance with law. This Special Civil Application is allowed to the above limited extent only and the rule is made absolute accordingly. No order as to costs.

2nd July 2001 (M.R. Calla, J.)

(N.G. Nandi, J.)

Sreeram.